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Patent

#9

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Edwards

Examiner: Unknown

Serial No. 09/924,935

Art Group: Unknown

Filed: August 8, 2001

For: Apparatus to Detect and Treat Aberrant Myoelectric Activity

Request for Correction of Inventorship  
Pursuant to 37 C.F.R. §1.48(a)

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Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

TECHNOLOGY CENTER R3700

Sir:

Applicant hereby requests, pursuant to 37 C.F.R. §1.48(a), correction of inventorship in the above identified case by the addition of joint inventors David S. Utley and Ronald G. Lax.

As required by 37 C.F.R. §1.48(a), accompanying this Request are:

1. Statements from David S. Utley and Ronald G. Lax that the error in inventorship occurred without any deceptive intent on his part (TAB 1).
2. A Declaration by the actual inventors as required by 37 C.F.R. §1.63 (TAB 2).
3. An assignment, executed by the actual inventors, with a Request for Recordation (TAB 3).
4. The written consent of the assignee (TAB 4).
5. The processing fee as set forth in 37 C.F.R. §1.17(i).

A check payable in an amount to cover the requisite processing fee for this Request to Change Inventorship and Request for Recordation of Assignment is attached. You are authorized to charge any excess fees, or to credit overpayments, to Deposit Account No. 06-2360. A copy of this Request (without attachments) is attached for this purpose.

06/25/2002 SFELEKE1 00000068 09924935

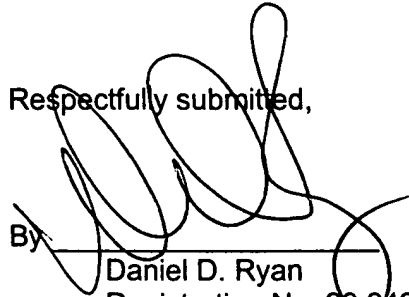
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130.00 OP

Approval of this Request is respectfully solicited.

Respectfully submitted,

By

  
Daniel D. Ryan  
Registration No. 29,243

RYAN KROMHOLZ & MANION, S.C.  
P.O. Box 26618  
Milwaukee, Wisconsin 53226-1618  
(262) 783-1300  
May 20, 2002

Curran/16785-CORrection of Inventionship/1.48(a) pet

**35 USC 119 PRIORITY CLAIM, IF ANY, FOR ABOVE LISTED U.S./PCT APPLICATIONS**

**DETAILS OF FOREIGN APPLICATION FROM WHICH PRIORITY APPLICATION  
CLAIMED UNDER 35 USC 119**

Above Appln. No.	Country	Application No.	Date of filing (day, month, year)	Date of issue (day, month, year)
1.				
2.				
3.				
4.				
5.				
6.				

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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Edwards

Examiner: Unknown

Serial No. 09/924,935

Art Group: Unknown

Filed: August 8, 2001

For: Apparatus to Detect and Treat Aberrant Myoelectric Activity

STATEMENT OF RONALD G. LAX  
REGARDING CHANGE OF INVENTORSHIP  
PURSUANT TO 37 C.F.R. §1.48(a)

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

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Sir:

I, Ronald G. Lax, do understand that a Request has been made to change the inventorship of this application by adding me as a joint inventor. I state that the error in inventorship occurred without any deceptive intent on my part. I, together with my fellow joint inventors, have executed a new Declaration.

I know that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the patent issued hereon. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Dated 4/5/2002

By Ronald G. Lax  
Ronald G. Lax



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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Edwards

Examiner: Unknown

Serial No. 09/924,935

Art Group: Unknown

Filed: August 8, 2001

For: Apparatus to Detect and Treat Aberrant Myoelectric Activity

STATEMENT OF DAVID S. UTLEY  
REGARDING CHANGE OF INVENTORSHIP  
PURSUANT TO 37 C.F.R. §1.48(a)

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

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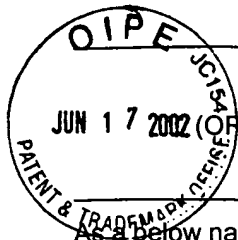
Sir:

I, David S. Utley, do understand that a Request has been made to change the inventorship of this application by adding me as a joint inventor. I state that the error in inventorship occurred without any deceptive intent on my part. I, together with my fellow joint inventors, have executed a new Declaration.

I know that willful false statements and the like are punishable by fine or imprisonment, or both (18 U.S.C. 1001) and may jeopardize the validity of the patent issued hereon. All statements made of my own knowledge are true and all statements made on information and belief are believed to be true.

Dated 3/9/02

By David S. Utley  
David S. Utley



## COMBINED DECLARATION AND POWER OF ATTORNEY

(ORIGINAL, DESIGN, NATIONAL STAGE OF PCT, SUPPLEMENTAL, DIVISIONAL,  
CONTINUATION OR CIP)

As a below named inventor, I hereby declare that:

## TYPE OF DECLARATION

This declaration is of the following type: (check one applicable item below)

- ☐ original  
☐ design  
☐ supplemental

NOTE: If the declaration is for an International Application being filed as a divisional, continuation or continuation-in-part application do not check next item; check appropriate one of last three items.

- ☐ national stage of PCT

NOTE: If one of the following 3 items apply then complete and also attach ADDED PAGES FOR DIVISIONAL, CONTINUATION OR CIP.

- ☐ divisional  
☒ continuation  
☐ continuation-in-part (CIP)

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## INVENTORSHIP IDENTIFICATION

WARNING: If the inventors are each not the inventors of all the claims an explanation of the facts, including the ownership of all the claims at the time the last claimed invention was made, should be submitted.

My residence, post office address and citizenship are as stated below next to my name. I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

## TITLE OF INVENTION

APPARATUS TO DETECT AND TREAT ABERRANT MYOELECTRIC ACTIVITY

## SPECIFICATION IDENTIFICATION

the specification of which: (complete (a), (b) or (c))

- (a) ☐ is attached hereto.  
(b) ☒ was filed on 08 August 2001 as ☒ Serial No. 09/924,935  
or ☐ Express Mail No., as Serial No. not yet known \_\_\_\_\_  
and was amended on \_\_\_\_\_ (if applicable).

NOTE: Amendments filed after the original papers are deposited with the PTO which contain new matter are not accorded a filing date by being referred to in the declaration. Accordingly, the amendments involved are those filed with the application papers or, in the case of a supplemental declaration, are those amendments claiming matter not encompassed in the original statement of invention or claims. See 37 CFR 1.67.

- (c) ☐ was described and claimed in PCT International Application No. \_\_\_\_\_  
filed on \_\_\_\_\_ and as amended under PCT Article 19 on \_\_\_\_\_  
(if any).

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Patent

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Edwards

Examiner: Unknown

Serial No. 09/924,935

Art Group: Unknown

Filed: August 8, 2001

For: Apparatus to Detect and Treat Aberrant Myoelectric Activity

**CONSENT OF ASSIGNEE  
TO CHANGE OF INVENTORSHIP  
PURSUANT TO 37 C.F.R. §1.48(a)**

Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Sir:

Curon Medical, Inc., 735 Palomar Ave., Sunnyvale, California 94806, the owner of 100% interest in this U.S. Patent Application by virtue of an assignment, a true copy of which is attached, hereby assents to the correction of inventorship filed herewith, namely adding David S. Utley and Ronald G. Lax as co-inventors.

I state that I am authorized to act on behalf of the assignee.

In accordance with 37 C.F.R. 3.73, the assignee hereby certifies that the evidentiary documents with respect to ownership have been reviewed and that, to the best of the assignee's knowledge and belief, title is in the assignee seeking to take this action.

Dated 4-24-02

By David S. Utley

Typed Name DAVID S. UTLEY

Title CHIEF MEDICAL OFFICER

ASSIGNMENT

In consideration of One Dollar (\$1.00) and other good and valuable considerations, receipt of which is acknowledged, we, Stuart D. Edwards, David S. Utley, and Ronald G. Lax, being the lawful owners hereby sell and assign to Curon Medical, Inc. its successors and assigns, the entire right, title and interest throughout the world in our invention in Apparatus to Detect and Treat Aberrant Myoelectric Activity described in the application 09/924,935 filed 8 August 2001 for United States patent, and in this and any and all U.S.A. and other patent applications and patents thereon, and in all rights of priority thereto.

Dated 3/19/02 By [Signature]  
Stuart D. Edwards

Dated 3/29/02 By [Signature]  
David S. Utley

Dated 4/5/2002 By [Signature]  
Ronald G. Lax

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, postage prepaid, in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231 June 11 2002.

Dated 11 June 2002  
By Judith Dunaway  
Judith Dunaway

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## ACKNOWLEDGMENT OF REVIEW OF PAPERS AND DUTY OF CANDOR

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37, Code of Federal Regulations, § 1.56

*(also check the following item, if desired)*

- ☐ In compliance with this duty there is attached an information disclosure statement in accordance with 37 CFR 1.98.

## PRIORITY CLAIM (35 U.S.C. § 119)

I hereby claim foreign priority benefits under Title 35, United States Code, § 119 of any foreign application(s) for patent or inventor's certificate or of any PCT international application(s) designating at least one country other than the United States of America listed below and have also identified below any foreign application(s) for patent or inventor's certificate or any PCT international application(s) designating at least one country other than the United States of America filed by me on the same subject matter having a filing date before that of the application(s) of which priority is claimed.

*(complete (d) or (e))*

- (d) ☒ no such applications have been filed.
- (e) ☐ such applications have been filed as follows.

NOTE: Where item (c) is entered above and the International Application which designated the U.S. itself claimed priority check item (e), enter the details below and make the priority claim.

A. PRIOR FOREIGN/PCT APPLICATION(S) FILED WITHIN  
12 MONTHS (6 MONTHS FOR DESIGN) PRIOR TO THIS  
APPLICATION AND ANY PRIORITY CLAIMS UNDER  
35 U.S.C. § 119

COUNTRY (OR INDICATE IF PCT)	APPLICATION NUM- BER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED UNDER 37 USC 119
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>
			<input type="checkbox"/> YES NO <input type="checkbox"/>

ALL FOREIGN APPLICATION(S), IF ANY FILED MORE THAN 12 MONTHS  
(6 MONTHS FOR DESIGN) PRIOR TO THIS U.S. APPLICATION

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NOTE: If the application filed more than 12 months from the filing date of this application is a PCT filing forming the basis for this application entering the United States as (1) the national stage, or (2) a continuation, divisional, or continuation-in-part, then also complete ADDED PAGES TO COMBINED DECLARATION AND POWER OF ATTORNEY FOR DIVISIONAL, CONTINUATION OR CIP APPLICATION for benefit of the prior U.S. or PCT application(s) under 35 U.S.C. S 120.

POWER OF ATTORNEY

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (List name and registration number)

Daniel D. Ryan (29,243)  
Joseph A. Kromholz (34,204)  
John M. Manion (38,957)  
Arnold J. Ericson (16,879)

Allan O. Maki (20,623)  
Patricia Jones (46,318)  
Daniel R. Johnson (46,204)  
Laura A. Dable (46,436)

(check the following item, if applicable)

[ ] Attached as part of this declaration and power of attorney is the authorization of the above-named attorney(s) to accept and follow instructions from my representative(s).

---

SEND CORRESPONDENCE TO

Daniel D. Ryan  
RYAN KROMHOLZ & MANION, S.C.  
Post Office Box 26618  
Milwaukee, Wisconsin 53226-0618

DIRECT TELEPHONE CALLS TO:

Daniel D. Ryan  
PHONE CALLS  
(262) 783 - 1300

---

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

## SIGNATURE(S)

NOTE: Carefully indicate the family (or last) name as it should appear on the filing receipt and all other documents.

Full name of sole or first inventor

STUART (GIVEN NAME) D (MIDDLE INITIAL OR NAME) EDWARDS (FAMILY (OR LAST NAME))  
 Inventor's signature *[Signature]*  
 Date 3/19/02 Country of Citizenship US  
 Residence (City, State/Country) SALINAS, CALIFORNIA  
 Post Office Address 14601 ROLAND CANYON ROAD  
SALINAS, CALIFORNIA 94628 93908 B  
3-19-02

Full name of second joint inventor, if any

DAVID (GIVEN NAME) S (MIDDLE INITIAL OR NAME) UTLEY (FAMILY (OR LAST NAME))  
 Inventor's signature *[Signature]*  
 Date 3-29-02 Country of Citizenship US  
 Residence (City, State/Country) SAN CARLOS, CALIFORNIA Redwood City CA  
 Post Office Address 108 COLTON AVENUE DSU 3-29-02 3725 JEFFERSON CT.  
SAN CARLOS, CALIFORNIA 94070 Redwood City CA 94062

Full name of third joint inventor, if any

RONALD (GIVEN NAME) G (MIDDLE INITIAL OR NAME) LAX (FAMILY (OR LAST NAME))  
 Inventor's signature *[Signature]*  
 Date 4/5/2002 Country of Citizenship US  
 Residence (City, State/Country) PALM CITY, FLORIDA  
 Post Office Address 2740 SOUTH WEST MARTINDOWN BLVD. NO. 300 3312 NW  
PALM CITY, FLORIDA 34990 PERIMETER RD.  
4/5/02

Full name of fourth joint inventor, if any

(GIVEN NAME) (MIDDLE INITIAL OR NAME) (FAMILY (OR LAST NAME))  
 Inventor's signature \_\_\_\_\_  
 Date \_\_\_\_\_ Country of Citizenship \_\_\_\_\_  
 Residence (City, State/Country) \_\_\_\_\_  
 Post Office Address \_\_\_\_\_

Full name of fifth joint inventor, if any

(GIVEN NAME) (MIDDLE INITIAL OR NAME) (FAMILY (OR LAST NAME))  
 Inventor's signature \_\_\_\_\_  
 Date \_\_\_\_\_ Country of Citizenship \_\_\_\_\_  
 Residence (City, State/Country) \_\_\_\_\_  
 Post Office Address \_\_\_\_\_

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CHECK PROPER BOX(ES) FOR ANY OF THE FOLLOWING ADDED PAGE(S) WHICH  
FORM A PART OF THIS DECLARATION

☐ Signature for sixth and subsequent joint inventors. Number of pages added \_\_\_\_\_

\*\*\*

☐ Signature by administrator(trix), executor(trix) or legal representative for deceased or incapacitated inventor. Number of pages added \_\_\_\_\_

\*\*\*

☐ Signature for inventor who refuses to sign or cannot be reached by person authorized under 37 CFR 1.47. Number of pages added \_\_\_\_\_

\*\*\*

☒ Added pages to combined declaration and power of attorney for divisional, continuation, or continuation-in-part (CIP) application.

☒ Number of pages added 2

\*\*\*

☐ Authorization of attorney(s) to accept and follow instructions from representative

\*\*\*

*(If no further pages form a part of this declaration then end this declaration with this page and check the following item:)*

☐ This declaration ends with this page

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Attorney's Docket No. 9222.16785-CON

**ADDED PAGE TO COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR DIVISIONAL, CONTINUATION OR C-I-P APPLICATION**

*(complete this part only if this is a divisional, continuation or C-I-P application)*

**CLAIM FOR BENEFIT OF EARLIER U.S./PCT APPLICATION(S) UNDER 35 U.S.C. 120**

I hereby claim the benefit under Title 35, United States Code, S 120 of any United States application(s) or PCT international application(s) designating the United States of America that is/are listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in that/those prior application(s) in the manner provided by the first paragraph of Title 35, United States Code, S 112, I acknowledge the duty to disclose information that is material to the examination of this application, namely, information where there is substantial likelihood that a reasonable Examiner would consider it important in deciding whether to allow the application to issue as a patent, which occurred between the filing date of the prior application(s) and the national or PCT international filing date of this application.

**PRIOR U.S. APPLICATIONS OR PCT INTERNATIONAL APPLICATIONS  
DESIGNATING THE U.S. FOR BENEFIT UNDER 35 USC 120:**

Status  
(CHECK ONE)

U.S. APPLICATIONS	U.S. FILING DATE	Patented	Pending	Abandoned
1. 09 / 026,085	19/02/1998		x	
2. 0 /				
3. 0 /				

**PCT APPLICATIONS DESIGNATING THE U.S.**

PCT APPLICATION NO.	PCT FILING DATE	U.S. SERIAL NOS. ASSIGNED (if any)
---------------------	-----------------	------------------------------------

4. _____		
5. _____		
6. _____		